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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

EXAMINER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte HANS PETTERSSON

Appeal 2015-003934
Application 13/286,367
Technology Center 3600

Before MICHAEL C. ASTORINO, CYNTHIA L. MURPHY and
KENNETH G. SCHOPFER, *Administrative Patent Judges*.

MURPHY, *Administrative Patent Judge*.

DECISION ON APPEAL

The Appellant¹ appeals under 35 U.S.C. § 134 from the Examiner's rejections of claims 17–29. We have jurisdiction over this appeal under 35 U.S.C. § 6(b).

We AFFIRM.

¹ “The real part[y] in interest in this Appeal and the present application is KIH-UTVECKLING, Forborgsgatan 15D Jonkoping, Sweden 554 39 by way of an Assignment recorded in the U.S. Patent and Trademark Office at Reel 027523, Frame 0685.” (Appeal Br. 3.)

STATEMENT OF THE CASE

The Appellant's invention relates to "a height-adjustable table stand powered by a solar cell panel." (Spec. 1, ll. 2–3.)

Illustrative Claim

17. A height-adjustable table stand comprising:
- a height-adjusting arrangement for adjusting the height of the table stand, wherein the height-adjusting arrangement comprises, at least one leg, each leg having an inner tubular member and an outer tubular member arranged for telescopic movement relative to each other, wherein one of the tubular members is a stationary tubular member and the other tubular member is a vertically moveable tubular member, and
 - a linear actuator attached to said tubular members and adapted to provide the telescopic movement between the tubular members;
 - a motor connected to the linear actuator; and
 - a control device connected to a table top and coupled to the motor, wherein the table stand further comprises a solar panel connected to the motor, wherein the solar panel is moveable relative to the battery, the motor, and the table top of the table stand.

Rejections

- I. The Examiner rejects claims 17–19, 22–27, and 29 under 35 U.S.C. § 103(a) as unpatentable over Verweij.² (Final Action 2.)
- II. The Examiner rejects claims 20 and 21 under 35 U.S.C. § 103(a) as unpatentable over Verweij and Parker.³ (Final Action 4.)
- III. The Examiner rejects claim 28 under 35 U.S.C. § 103(a) as unpatentable over Verweij and Uebelhart.⁴ (Final Action 4.)

² US 2011/0041739 A1, published February 24, 2011.

³ US 7,662,035 B1, issued February 16, 2010.

⁴ US 4,635,492 issued January 13, 1987.

ANALYSIS

Claims 17 and 18 are the independent claims on appeal, with the rest of the claims on appeal (i.e., claims 19–29) depending directly or indirectly from independent claim 18. (*See* Appeal Br., Claims App.) Independent claims 17 and 18 recite “[a] height adjustable table stand.” (*Id.*)

Independent Claim 17

Independent claim 17 recites a “linear actuator,” a “motor,” and a “battery.” (Appeal Br., Claims App.) The Examiner finds that Verweij discloses a table stand comprising these components. (*See* Final Action 3.) This finding is supported by Verweij’s disclosure. Specifically, Verweij discloses an adjusting device 5 having an application “in a table 1.” (*See* Verweij ¶ 43, Fig. 1.) The adjusting device 5 comprises an actuator 15 and electric motors 20 for actuating a drive shaft of the actuator 15. (*See id.* ¶¶ 46, 48; *see also* Figs. 5 and 6.) The electric motors 20 can be “powered from a battery pack” and the battery pack can be “detachable for external charging, or chargeable by means of an adapter in the table.” (*Id.* ¶ 48.)

Independent claim 17 additionally recites “a solar panel connected to the motor.” (Appeal Br., Claims App.) The Examiner finds that Verweij teaches a solar panel connected to the motor of a linear actuator. (*See* Final Action 3.) This finding is supported by Verweij’s disclosure. Specifically, Verweij discloses that its adjusting device 5 can also have application “for a bicycle carrier.” (Verweij ¶ 50.) This bicycle carrier “may be equipped with an electric motor as part of the actuator,” “may have batteries for powering the electric motor,” and “[t]he battery may be rechargeable by means of a solar energy panel.” (*Id.* ¶ 53.)

The Examiner determines that it would have been obvious to one of ordinary skill in the art “that recharging of this battery could be done by either method disclosed (solar panel or external charger) because both perform the same function of recharging a battery.” (Answer 4.) The Examiner explains that Verweij’s adjusting device 5 “as used in the table or bicycle carrier are both shown to be activated by a motor and powered by a battery.” (*Id.* at 3.) The Examiner also explains that “[t]ables can be used outdoors, for outdoor patio dining.” (*Id.* at 5.)

The Appellant advances arguments premised upon Verweij not specifically discussing that a solar panel can be used with its table 1, and/or Verweij only discussing a solar panel in connection with its bicycle carrier. (*See, e.g.*, Appeal Br. 6–7.) The Appellant also implies that Verweij’s table is always “indoors” while Verweij’s bicycle carrier is always “outside.” (*Id.* at 7.) According to the Appellant, the function of the solar panel would “**clear[ly] change**” when used in an indoor table, the result of using a solar panel in an indoor table “**would not be predictable**,” and Verweij “**effectively teaches away**” from using a solar panel in an indoor table. (*Id.* at 8, 9, 10; *see also* Reply Br. 2–7.)

We are not persuaded by these arguments because they do not challenge the Examiner’s finding that Verweij teaches that a charging device can be detached from and external to the table; and they do not challenge the Examiner’s finding that Verweij teaches that a solar panel can be used to charge a battery. In the Examiner’s proposed combination of the prior art teachings, the solar panel would perform the same function as the external charger (i.e., charging of a battery), and the results of this combination would be predictable (i.e., the battery would be charged). Also, the

Appellant does not point to, and we do not see, where Verweij criticizes, discredits, or otherwise discourages investigation into the use of a solar panel with a table.

Moreover, the Appellant's foremost arguments hinge, at least partially, upon the "indoor" use of a table as opposed to the "outside" use of a bicycle carrier. (*See* Appeal Br. 7–10.) However, the Examiner finds that "[t]ables can be used outdoors, for outdoor patio dining" (Answer 5); and the Appellant does not persuasively challenge this finding (*see* Reply Br. 5).

Independent claim 17 further recites that "the solar panel is moveable relative to the battery, the motor, and the table top of the table stand." (Appeal Br., Claims App.) As discussed above, the Examiner finds that Verweij teaches that "the battery recharging device may be external to the table." (Answer 6.) The Examiner also finds that "the table, motor, table top and charger would be moveable relative to this external battery charger because tables are often placed where they are most needed for other uses such as dining, work, or displays." (*Id.*) In other words, if a solar panel serves as the external battery recharging device, the table would be movable relative to this device.

The Appellant argues that "[e]ven if some inventive skill was given to the skilled person, he/she would provide the solar panel attached to the table top" and this would not result in a table having a moveable solar panel. (Appeal Br. 9.) The Appellant asserts that "[b]y providing this feature, a user of the table may place the solar panel in the location which at present is exposed to maximum sun light." (*Id.*) The Appellant's position appears to be that placement of a solar panel for maximum exposure to sun light is not a feature shown or suggested by the prior art. (*See id.*)

We are not persuaded by this argument because it does not address the Examiner's finding that that "the table, motor, table top and charger would be moveable relative to this external battery charger because tables are often placed where they are most needed for other uses such as dining, work, or displays." (*Id.*) In fact, the Appellant's only contention relating to this finding is that "[i]f tables are placed where they are most needed," there is no reason why a moveable table would be "desirable." (Reply Br. 10.) This contention does not challenge the Examiner's position that the table is structurally movable in the claimed manner.⁵

Thus, we sustain the Examiner's rejection of independent claim 17 under 35 U.S.C. § 103(a) as unpatentable over Verweij (Rejection I).

Independent Claim 18

The Appellant argues independent claim 18 in conjunction with independent claim 17 (*see* Appeal Br. 5–12) and, for the same reasons discussed above, we are not persuaded by these arguments.

Thus, we sustain the Examiner's rejection of independent claim 18 under 35 U.S.C. § 103(a) as unpatentable over Verweij (Rejection I).

Dependent Claims 19–29

The Appellant does not argue claims 19, 22–27, and 29 separately from independent claim 18. (*See* Appeal Br. 12.) With respect to dependent claims 20, 21, and 28, the Appellant submits that the arguments discussed above "are also applicable to these claims." (*See id.* at 13.) However, the

⁵ We note that independent claim 17 does not require the relative movement of the solar panel to be for the purpose of maximizing sun light exposure. (*See* Appeal Br., Claims App) As pointed out by the Examiner, "there is no reference to timing of this movement" in the claim language. (Answer 5.)

Appellant does not point, with particularity, to features recited in these dependent claims which would alter our analysis of these applied arguments.

Thus, we sustain the Examiner's rejection of dependent claims 19, 22–27, and 29 under 35 U.S.C. § 103(a) as unpatentable over Verweij (Rejection I); we sustain the Examiner's rejection of dependent claims 20 and 21 under 35 U.S.C. § 103(a) as unpatentable over Verweij and Parker (Rejection II); and we sustain the Examiner's rejection of dependent claim 28 under 35 U.S.C. § 103(a) as unpatentable over Verweij and Uebelhart (Rejection III).

DECISION

We AFFIRM the Examiner's rejections of claims 17–29.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED